IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 14596 of 2001

Between:

Koduru Chittibabu Chowdary S/o.Late of Srimanthu Chowdary
R/o.27-11-4/2,Spring Road Velampet
Visakhapatnam Dist.

..... PETITIONER

AND

1 State of A.P Rep.by its Prl.Secretary to Govt, Revenue Endowments-IV
Dept Secretariat Buildings
Hyderabad.
2 Regional Joint Commissioner Multizone-I,Endowments Dept
A.P Kakinada
3 Assistant Commissioner of Endowments
Visakhapatnam.
4 Executive Officer Sri Durgalamma Ammavari Temple
Velampet Visakhapatnam.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to Rc.No.4836/94, dated 20-9-92 of the Assistant Commissioner, Endowments Dept,Visakhapatnam and also Revision petition No.86/98 dated 4-5-2001 of the Regional Joint Commissioner,Multizone-I,Endowments Dept, Kakinada and quash the same in so far it is against the petitioner and direct the respondents to recognize the petitioner as a Founder-Trustee of Durgammavari Temple and pass such other order or orders.

Counsel for the Petitioner:MR.Y.SUDHAKAR

Counsel for the Respondents 1to 3: Mr. Ramesh Ranganathan, Senior

Counsel

Counsel for the respondent No. 4: MS.M.VIDYAVATHI and G.P. for Endowments

The Court made the following :

ORDER:

Heard Sri Ramesh Ranganadhan, learned senior counsel appearing on behalf of the petitioner, Ms. M. Vidyavathi and the learned Government Pleader appearing on behalf of the respondents.

Petitioner herein claims to be the founder member of the institution in question, filed this Writ Petition, inter alia, seeking Writ of certiorari as against the orders dated 20th September, 1998 passed by the third respondent herein and as partly allowing the same in a revision petition No. 86/98 dated 4.5.2001 by the second respondent herein as bad and illegal.

The case of the petitioner in brief is that he is a devotee of the temple in question, which is called as Sri Durgalammavaru Diety near Poorna Market, Velampet, Visakhapatnam. It is stated that the petitioner spent substantial amount for development of the said temple and by the grace of the goddess, the temple increased from day to day and it acquired great importance in Visakhapatnam. Thereafter, an application was filed by the petitioner for recognizing him as Founder Member but, the third respondent herein rejected the claim inter alia, on erroneous grounds, through his proceedings dated 20.9.1998. Against the said orders, he filed a revision petition before the Regional Joint commissioner, and while it is pending he filed a writ petition No. 5689/99. The said Writ Petition was disposed of with a direction to dispose of the revision petition which was pending before the Regional

Joint Commissioner, Multi zone 1.

The learned counsel appearing for the petitioner submits that it is very necessary to give due recognition to the services rendered and contribution made by the petitioner especially when the petitioner developed the status of the temple as A-Category.

Ms. M. Vidyavathi, learned counsel appearing for the respondents submits that having regard to the fact that admittedly the institution is being sufficiently ancient one, the petitioner cannot make any claim as Founder Member and on the contribution made, which hardly comes to Rs. 3,500/-, he cannot seek any recognition or benefit as such.

The leaned Government Pleader supported the objections raised on behalf of other respondents.

After having heard the submissions and also after perusing the entire material on record, the only question that calls for consideration in this Writ Petition is, whether while recognizing the person as a founder member, in respect of the Institution, under the provisions of the A.P. Charitable and Hindu Religious Institutions Endowments Act, 1987, the authority can impose any conditions in respect of benefits one would be entitled to?

There is no dispute of the fact that the petitioner has made a contribution and further the institution in question is ancient one. Though the petitioner has submitted that he has spent more than three lakhs, however, it is stated by the respondents that the contribution made by the petitioner is hardly comes to Rs. 3,500/-. Having regard to the fact that there is no other contribution made by any other person, it has to be seen that the only contribution made for the development of the temple is the contribution made by the petitioner. It is no doubt true that the income of the temple correspondingly increased and as it acquired a status of A-Category temple, archakas were appointed and they are performing regular services to the temple. Therefore, on this basis, the petitioner set up a claim to recognize him as Founder Member of the temple, so that he can discharge further services of the temple under the above said Act.

Initially the third respondent herein rejected the case of the petitioner. However, the second respondent in a revision filed by the petitioner, allowing the

same partly, recognizing the petitioner as Founder Member, directed that the petitioner would not be entitled to certain other benefits. But that revision orders have not challenged by either of the respondents herein or by any other person. Thus, to the extent the petitioner is the Founder Member has become conclusive findings as against the respondents herein. Having regard to the same, it is not open for the respondents to canvas once again challenging the claim of the petitioner as Founder Member. Further either of the learned counsel appearing on behalf of the respondents has failed to show any provision of law for imposing such a condition once a persons is recognized as Founder Member and it is not a case where the claim of the petitioner has been rejected, therefore, no such condition can be imposed having recognized the petitioner as founder member and it is not open for the authorities to put any condition in regard to discharge of benefits etc., to which one can be entitled to under the law. Even the order under revision does not disclose any valid reasons to support for imposing of such conditions against the petitioner herein. In the circumstances, it has to be held that there is absolutely no justification either in law or in facts to impose such conditions while recognizing the petitioner as Founder Member.

The Writ Petition is accordingly allowed and the impugned order passed by the second respondent herein, to the extent imposing conditions, is set aside. It is needless to observe that the petitioner is entitled to all the benefits and he is entitled to discharge of all the functions, which he is entitled to as Founder Member of the Institution. No costs.

Ka 4.11.2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Fourth day of November Two Thousand and Four.

To

1 State of A.P Rep.by its Prl.Secretary to Govt, Revenue Endowments-IV
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4 Executive Officer Sri Durgalamma Ammavari Temple
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5. 2 CCs to G.P for Endowments, High Court Buildings, High Court of A.P., Hyderabad. (OUT)

6. 2 CD copies.